

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ERIC RAY PRICE

§

VS.

§

CIVIL ACTION NO. 1:13cv521

HAMILTON GENERAL HOSPITAL

§

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Eric Ray Price, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against the Hamilton General Hospital.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Factual Background

Plaintiff sues the Hamilton General Hospital located in Hamilton, Texas, complaining that hospital staff illegally disposed of some white pills that were in the possession of plaintiff's alleged victim while she was at the hospital. Plaintiff claims the pills could have provided exculpatory evidence in the felony case against him.

Analysis

The Civil Rights Act, 42 U.S.C. §1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28

U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curium*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claims arose. Plaintiff's claims arose in Hamilton, Texas where his victim was hospitalized. Additionally, the defendant is located in Hamilton, Texas. The city of Hamilton is located in Hamilton County, Texas. Pursuant to 28 U.S.C. § 124, Hamilton County is in the Western District of Texas, Waco Division. Accordingly, venue in the Eastern District of Texas is not proper.

When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). This case should be transferred to the Western District of Texas, Waco Division. An appropriate order so providing will be entered by the undersigned.

SIGNED this 2nd day of October, 2013.

  
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Zack Hawthorn  
United States Magistrate Judge